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CV 03-1053 #3

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MAY 08 2003 KN

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BOTIMA MANGUNGU AND GRACE  
MANGUNGU,

Plaintiffs,

v

THE CITY OF SEATTLE, et al ,

Defendants

**C03-1053**

King County Superior Court  
Cause No.: 03-2-23611-0SEA

**VERIFICATION OF STATE  
COURT RECORDS**

**VERIFICATION**

The undersigned hereby declare the following

- 1 The undersigned are attorneys of record for the above-named defendants
- 2 Pursuant to CR 101(b), attached are true and correct copies of all records and proceedings in the Superior Court of King County, Washington in the above-entitled action, Cause No 03-2-23611-0SEA

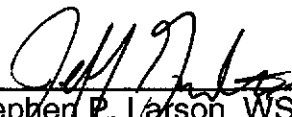
VERIFICATION OF STATE COURT  
RECORDS - 1

STAFFORD FREY COOPER  
Professional Corporation  
ATTORNEYS  
2500 RAINIER TOWER  
1301 FIFTH AVENUE  
SEATTLE, WASHINGTON 98101-2621  
TELEPHONE (206) 623-9900

<u>Exhibit</u>	<u>Document</u>
A	Summons and Complaint
B	Notice of Appearance – Defendant City of Seattle Stafford Frey Cooper

DATED this 7 day of May, 2003 at Seattle, Washington

**STAFFORD FREY COOPER, P.C.**

By   
Stephen P. Larson, WSBA #4959  
Jeff T. Gutierrez, WSBA #31971  
Attorneys for Defendants

VERIFICATION OF STATE COURT  
RECORDS - 2

STAFFORD FREY COOPER  
Professional Corporation  
ATTORNEYS  
2500 RAINIER TOWER  
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SEATTLE WASHINGTON 98101-2621  
TELEPHONE (206) 623-9900

## IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON

## IN AND FOR THE COUNTY OF KING

BOTIMA MANGUNGU AND GRACE  
MANGUNGU, husband and wife,

Plaintiffs,

v.

THE CITY OF SEATTLE; CITY OF SEATTLE  
POLICE DEPARTMENT; and TOM CONRAD  
AND JANE DOE CONRAD husband and wife,  
and the marital community composed thereof,  
AND STEVEN JANDOC AND JANE DOE  
JANDOC, husband and wife, and the marital  
community composed thereof, additional Officers  
John and/or Jane Doe and their respective marital  
communities.

Defendants.

Case No.:

SUMMONS

RECEIVED  
03 APR 10 AM 10:21  
CITY OF SEATTLE  
MAYOR'S OFFICE

TO THE DEFENDANT(S): A lawsuit has been started against you in the above-entitled Court by plaintiff above-named. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy on the person signing this Summons within 20 days after the service on you of this Summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the Plaintiff is entitled to what he asks for because you have not responded. If you serve a Notice of Appearance on the person signing this Summons, you are entitled to notice before a default judgment may be entered.

SUMMONS - 1

**Exhibit****A**


THE LAW OFFICE OF  
ANDREW W. SCHWARZ  
119 First Avenue South Suite 320  
Seattle, Washington 98104-2577  
(206) 622-9909 Fax (206) 622-6636

1 You may demand that the Plaintiff file this lawsuit with the Court. If you do so, the demand  
2 must be in writing and must be served on the person signing this Summons. Within 14 days after you  
3 serve the demand, the Plaintiff must file this lawsuit or this service on you will be void

4 If you wish to seek the advice of an attorney you should do so promptly, so that your written  
5 response, if any, may be served on time.

6 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of  
7 Washington.  
8

9  
10 Dated this 24 day of March, 2003

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15 Andrew W. Schwarz, WSBA#17303  
16 Attorney for Plaintiff  
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SUMMONS - 2

THE LAW OFFICE OF  
ANDREW W. SCHWARZ  
119 First Avenue South Suite 320  
Seattle, Washington 98104-2577  
(206) 472-9909 Fax (206) 472-6636

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

BOTIMA MANGUNGU AND GRACE  
MANGUNGU, husband and wife,

Plaintiffs,

v

THE CITY OF SEATTLE, CITY OF SEATTLE  
POLICE DEPARTMENT; and TOM CONRAD  
AND JANE DOE CONRAD husband and wife,  
and the marital community composed thereof,  
AND STEVEN JANDOC AND JANE DOE  
JANDOC, husband and wife, and the marital  
community composed thereof, additional Officers  
John and/or Jane Doe and their respective marital  
communities

Defendants.

Case No.:

COMPLAINT

RECEIVED  
03 APR 10 AM 10:28  
CITY OF SEATTLE  
MAYOR'S OFFICE

COME NOW, Plaintiffs, by and through their attorney, Andrew W. Schwarz. and allege and  
complain as follows.

**A. PARTIES AND VENUE**

1. All events referred to in this complaint occurred in King County, Washington unless specified as being elsewhere
2. Plaintiffs are husband and wife, residing in King County, Washington at all times relevant to this complaint.
3. Tom Conrad and Jane Doe Conrad, Detective S Jandoc and Jane Doe Jandoc are, on information and belief, residents of King County, Washington During all relevant times,

COMPLAINT - 1

THE LAW OFFICE OF  
ANDREW W. SCHWARZ  
119 First Avenue South Suite 320  
Seattle, Washington 98104-2577  
(206) 422 0000 Fax (206) 422 6626

1 the named defendants Conrad and Jandoc were employed as police officers by the City of  
2 Seattle Police Department, acting within the scope of their employment with the City.

3 4 The City of Seattle is a municipal corporation organized under the laws of the state of  
4 Washington

5 5 Pursuant to RCW 4 96 020, Plaintiffs served their Claim for Damages on the City of Seattle  
6 via legal messenger on December 6, 2001. More than sixty days has elapsed since the date  
7 of service of said Claim for Damages.

8 **B. FACTS**

9 6 On or about April 23, 2001, Plaintiff Botima Mangungu was at work at his usual job  
10 location on the premises of the Greyhound Bus Terminal in the City of Seattle

11 7. Mr Mangungu was employed as a baggage handler and customer service agent at the  
12 terminal. On the date in question, he was in uniform and performing his regular tasks  
13 assisting passengers and loading and unloading busses.

14 8. Mr. Mangungu was born and raised in the African nation of Congo and has dark skin At  
15 the time of the incident in question he was dressed in dark blue uniform slacks issued by  
16 Greyhound and a gray uniform shirt with the Greyhound logo prominently displayed. He  
17 wore a Greyhound uniform hat over his extremely short cropped hair At the time of the  
18 incident Mr. Mangungu was thin, weighing approximately 160 pounds.

19 9. Mr. Mangungu was one of approximately five black employees who were identically  
20 dressed and working at the bus depot on the date in question.

21 10. On April 23, 2001 at 12 07 hours, the Seattle police received a report of a bank robbery at a  
22 location in downtown Seattle The robber was described by witnesses as a large or husky  
23 black male in his forties, approximately five feet, eight inches tall, and two hundred pounds  
24 with shaggy hair, a tan jacket, and carrying a Bartell's Drug Store shopping bag which was  
25

1 filled with money. The stolen money contained an electronic tracking device that was  
2 transmitting a traceable radio signal.

3 11 By means of the radio transmitter Police Tracking Device (PDT) that had been placed in the  
4 bag with the money, the police were able to follow the robber in several different police  
5 cars and coordinate officers for the arrest.

6 12. The police were able to follow every turn made by the robber. When the signal indicated  
7 that the suspect had entered the Greyhound Depot, there were at least twelve Seattle Police  
8 officers at the scene to contain the area and prevent the suspect from leaving. Within  
9 minutes, another ten officers arrived.

10 13. Notwithstanding the radio locator and the officers surrounding the bus depot, at least two  
11 police officers, in plain clothes, ran into the depot with guns drawn. On information and  
12 belief, the officers who entered the depot and assaulted the plaintiff were one or both of the  
13 named individual defendants. The depot was crowded with passengers and Greyhound  
14 employees as several buses were unloading passengers and one bus was loading.

15 14. The officers quickly ran through the terminal, jumping around passengers and baggage and  
16 displaying their weapons. Within moments of getting out of their car, they ran up to  
17 plaintiff Mr. Mangungu. They pointed their guns at him and one of the officers threw him  
18 to the ground.

19 15 They screamed at him to be still and by their manner and gestures threatened to use deadly  
20 force. They handcuffed Mr. Mangungu and placed their weapons in his face and at the  
21 back of his head while shouting at him not to move. One officer placed his knee behind  
22 Mr. Mangungu's neck while the other placed his gun on Mr. Mangungu's forehead and  
23 continued to scream orders into his face.

24 16 People scattered in all directions. One of Mr. Mangungu's fellow workers tried to  
25 determine what was going on but was told by the police to shut up. Because the assailants

1 were not in Police uniforms, it appeared that a violent robbery was occurring, adding to the  
2 confusion.

3 17 At about the same time, the robber, unaware of the commotion inside, walked out of the bus  
4 depot and directly into the hands of waiting officers. He was arrested without incident. He  
5 had the bag of money in his hand. He wore a tan jacket, was older and much heavier than  
6 Mr. Mangungu and had thick, shaggy hair.

7 18. Mr. Mangungu was picked up off the ground and released. A Lieutenant Whelan of the  
8 Seattle Police department approached Mr. Mangungu shortly thereafter and apologized for  
9 the incident.

10 19 Mr. Mangungu was in shock. He had injured his knee, leg, and hip when he was thrown to  
11 the pavement. He was psychologically and emotionally traumatized. He was approached  
12 by several co-workers who found him non-responsive and dazed. He appeared to be deeply  
13 traumatized.

14 20 The aforementioned emotional and physical injuries to Mr. Mangungu impacted his  
15 marriage and relationship with his wife and children. Plaintiff Grace Mangungu suffered  
16 loss of love, affection, care, services, companionship, society and consortium due to the  
17 injuries to her husband.

18 21. Several days later, Mr. Mangungu was attempting to work. While loading a heavy metal  
19 toolbox onto a bus, he heard the siren of a police car close to the depot. He had a  
20 dissociative response, typical of Post Traumatic Stress, which caused him to blackout and  
21 drop the toolbox onto his foot causing severe injury.

### 22 C. CAUSES OF ACTION

23 22. The events above described constitute an assault and battery by defendants upon Mr.  
24 Mangungu. The acts described are tortious battery because (1) the defendants had no right  
25 to use any force against Mr. Mangungu in this situation, and (2) to the extent they



1 mistakenly believed they had the right to employ some force, the force actually employed  
2 was excessive.

3 23. The events above described constituted unlawful imprisonment of Mr Mangungu by  
4 Defendants

5 24. The events above-described constitute Negligent Infliction of Emotional Distress

6 25. The events above-described constitute Intentional or Reckless Infliction of Emotional  
7 Distress, otherwise known as the tort of Outrage.

8 26. The events above-described constituted false arrest of Mr. Mangungu by Defendants

9 27. The events above-described constituted a violation of 42 United States Code, Section 1983  
10 since the defendants acted under the color of state law to deprive Mr. Mangungu of his  
11 federal constitutional rights to be free from unreasonable search and seizure, and arrest  
12 through the use of excessive force.

13 28. Defendants City of Seattle and Seattle Police negligently hired, trained, supervised, and  
14 retained Defendants Conrad and Jandoc

15 29. As a result of the tortuous injury to Mr Mangungu, his wife Grace Mangungu suffered loss  
16 of love, affection, care, services, companionship, society and consortium

17 **D. DAMAGES**

18 30 Plaintiff Mr Mangungu was injured as a result of defendants' intentional and negligent  
19 acts Mr. Mangungu resulting damages include the following categories in amounts to be  
20 determined at trial:

- 21 A. Pain and suffering for his personal injuries;  
22 B. Mental and emotional distress;  
23 C. Medical costs;  
24 D. Expenses relating to medical costs;  
25 E. Punitive damages as allowed by law; and

1 F. All other damages discovered during this litigation

2 31 Plaintiff Grace Mangungu suffered damages because of the injuries to her husband, in the  
3 form of loss of love, affection, care, services, companionship, society and consortium, in an  
4 amount to be established at trial.

5 WHEREFORE, Plaintiffs request relief as follows

6 A A judgment in their favor,

7 B. An award of damages as set forth above,

8 C An award for the costs and fees for maintaining this action, and,

9 D For whatever further relief the court deems fair and just

10 Dated this 24 day of March, 2003.

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12 

13 Andrew W. Schwarz, WSBA#17303  
14 Attorney for Plaintiff  
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The Honorable Glenna S Hall

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

BOTIMA MANGUNGU AND GRACE  
MANGUNGU,

Plaintiffs,

v

THE CITY OF SEATTLE, et al ,

Defendants

No 03-2-23611-0 SEA

NOTICE OF APPEARANCE

TO: The Clerk of the Above-Entitled Court

AND TO Andrew W Schwarz, Attorney for Plaintiffs

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned hereby appears as counsel of record for defendant CITY OF SEATTLE, without waiving the questions of

1. Lack of jurisdiction over the subject matter,
2. Lack of jurisdiction over the person;
3. Improper venue,
4. Insufficiency of process,
5. Insufficiency of service of process,

NOTICE OF APPEARANCE - 1

M:\CLIENTS\3019\24597\PLD NOA.DOC

**Exhibit**

**B**

STAFFORD FREY COOPER

ATTORNEYS

2500 RAINIER TOWER  
1301 FIFTH AVENUE  
SEATTLE WASHINGTON 98101-2621  
TEL (206) 623-9900  
FAX (206) 624-6855

6 Failure to state a claim upon which relief may be granted, and

7. Failure to join a party under Rule 19.

YOU ARE FURTHER NOTIFIED that all further papers and pleadings herein,  
except original process, shall be served upon the undersigned attorneys at the address  
stated below.

DATED this 24 day of April, 2003

STAFFORD FREY COOPER

By

Stephen P. Larson / WSBA # 4959  
Attorneys for Defendant City of Seattle

NOTICE OF APPEARANCE - 2

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STAFFORD FREY COOPER

Professional Corporation

ATTORNEYS  
2500 RAINIER TOWER  
1301 FIFTH AVENUE  
SEATTLE, WASHINGTON 98101-2621  
TEL. (206) 623-9900  
FAX (206) 624-6885

Certificate of Service

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **NOTICE OF APPEARANCE** on the following individuals

Andrew W. Schwarz  
Law Office of Andrew W. Schwarz  
119 First Avenue, Suite 320  
Seattle, WA 98104-2577

*Attorneys for Plaintiff*

☐ Via Messenger  
☒ Via Mail

DATED this 24<sup>th</sup> day of April, 2003

  
Sally Phillips